

Message Text

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15

ORIGIN EB-07

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

OIC-02 AF-08 ARA-06 NEA-10 /139 R

DRAFTED BY EB/OT/STA:MCJONES/TREAS:LPOTTS:JH

APPROVED BY EB/OT/STA:JSSPIRO

TREAS:POSUCHMAN

EUR/RPE:RBRESLER

EA/J:SECTON

EA/ANP:HTNELSON

EUR/CAN:D0LAKEMORE

STR:RHEIMLICH

EUR/CC:DMILLER

EB/EWT:GBOUTIN

----- 107722

R 122157Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY CANBERRA

AMEMBASSY VIENNA

AMEMBASSY BRUSSELS

AMEMBASSY OTTAWA

AMEMBASSY ROME

AMEMBASSY TOKYO

AMEMBASSY COPENHAGEN

AMEMBASSY MADRID

AMEMBASSY HELSINKI

AMEMBASSY PARIS

AMEMBASSY BONN

AMEMBASSY ATHENS

AMEMBASSY LUXEMBOURG

AMEMBASSY VALLETTA

AMEMBASSY THE HAGUE

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AMEMBASSY OSLO

AMEMBASSY LISBON
AMEMBASSY BERN
AMEMBASSY STOCKHOLM
AMEMBASSY LONDON
USMISSION EC BRUSSELS
AMEMBASSY DUBLIN
AMEMBASSY PRAGUE
AMEMBASSY BUDAPEST
INFO USMISSION GENEVA
USDEL MTN GENEVA
USMISSION OECD PARIS

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E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: IMPLEMENTATION OF ANTIDUMPING LEGISLATION BY
PARTIES TO GATT ANTIDUMPING CODE

1. GATT ANTIDUMPING CODE PROVIDES FOR REGULARIZED STANDARDS AND OPEN PROCEDURES FOR APPLICATION OF DOMESTIC ANTIDUMPING LEGISLATION BY SIGNATORIES INCLUDING U.S. THE SIGNATORIES MEET ANNUALLY AS ANTIDUMPING COMMITTEE TO DISCUSS PROBLEMS INVOLVING APPLICATION OF THE CODE. IN ADDITION THE ANTIDUMPING COMMITTEE IS NOW CONSIDERING WHETHER THERE ARE SUFFICIENT AMBIGUITIES AND OMISSIONS IN THE CODE AS ADOPTED IN 1968 TO WARRANT REVISION. A POSSIBILITY OF CONCERN TO U.S. IS THAT SIGNATORIES MAY BE USING THE THREAT OF ANTIDUMPING INVESTIGATION TO EXTRACT, OR TO ENABLE DOMESTIC FIRMS TO EXTRACT, INFORMAL PRICE AND/OR QUANTITATIVE UNDERTAKINGS FROM U.S. AND FOREIGN COMPANIES EXPORTING TO SIGNATORIES. IN PREPARATION FOR THE ANNUAL MEETING SCHEDULED TO BEGIN OCTOBER 4 AS PART OF REVIEW OF CODE, TREASURY IS INTERESTED IN LEARNING WHETHER THERE IS A BASIS FOR THIS CONCERN.

2. ARTICLE 7(A) OF THE CODE STATES "ANTIDUMPING PROCEED-
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INGS MAY BE TERMINATED WITHOUT IMPOSITION OF ANTIDUMPING DUTIES OR PROVISIONAL MEASURES UPON RECEIPT OF A VOLUNTARY UNDERTAKING BY THE EXPORTERS TO REVISE THEIR PRICES SO THAT THE MARGIN OF DUMPING IS ELIMINATED OR TO CEASE TO EXPORT TO THE AREA IN QUESTION AT DUMPED PRICES IF THE AUTHORITIES CONCERNED CONSIDER THIS PRACTICABLE, E.G. IF THE NUMBER OF EXPORTERS OR POTENTIAL EXPORTERS OF THE PRODUCT IN QUESTION IS NOT TOO GREAT

AND/OR IF THE TRADING PRACTICES ARE SUITABLE." IT IS THE VIEW OF THE USG THAT PRICE UNDERTAKINGS AS THE OASIS FOR THE DISCONTINUANCE OR TERMINATION OF AN ANTI-DUMPING INVESTIGATION ARE NOT APPROPRIATE UNTIL AND UNLESS THE AUTHORITIES INVESTIGATING THE ALLEGATION IN THE COMPLAINT HAVE FIRST DETERMINED THAT THERE IS IN FACT A MARGIN OF DUMPING. IN OTHER WORDS, ONCE THE CONCERNED AUTHORITIES HAVE RECEIVED ALLEGATIONS OF DUMPING AND INJURY FROM A DOMESTIC COMPLAINANT, THEY SHOULD CONDUCT A FORMAL INVESTIGATION OF THESE CHARGES. ONLY IF THESE CHARGES ARE SUBSTANTIATED BY AN INVESTIGATION AS PROVIDED FOR BY THE CODE AND THE MARGIN OF DUMPING THEREBY ESTABLISHED, CAN THE CONCERNED AUTHORITIES PLACE THEMSELVES IN A POSITION TO REQUIRE AND/OR ACCEPT PRICE UNDERTAKINGS. NO FOREIGN FIRM SHOULD BE REQUIRED TO REVISE ITS PRICES BY MORE THAN THE PRECISE MARGIN OF DUMPING WHICH HAS BEEN DETERMINED TO EXIST. A TRUE PRICE UNDERTAKING WITHIN THE MEANING OF THE CODE IS THUS POSSIBLE ONLY IN RELATION TO A MARGIN OF DUMPING, ESTABLISHED ON THE BASIS OF UPDATED PRICE DATA IN BOTH MARKETS.

3. IN ADDITION TO SITUATIONS WHERE GOVERNMENTS TERMINATE DUMPING PROCEEDINGS PRIOR TO AN INVESTIGATION ON THE BASIS OF PRICE UNDERTAKINGS MADE BY A COMPANY TO A GOVERNMENT THERE MAY BE OTHER IMPROPER USES OF ANTI-DUMPING LAWS. FOR EXAMPLE, A GOVERNMENT COULD MERELY THREATEN TO BRING ABOUT AN ANTIDUMPING CASE UNLESS A COMPANY WHICH IS ALLEGEDLY DUMPING WORKS OUT PRICE AND/OR QUANTITATIVE ARRANGEMENTS WITH A COMPLAINING DOMESTIC COMPANY. ANY EVIDENCE OF SUCH PRICE ARRANGEMENTS OR QUANTITATIVE UNDERTAKINGS ARISING FROM A THREAT OF ANTIDUMPING ACTIONS WOULD ALSO BE OF CONSIDERABLE LIMITED OFFICIAL USE

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INTEREST.

4. POSTS ARE REQUESTED TO PROVIDE READILY AVAILABLE INFORMATION ON ANTIDUMPING PROCEEDINGS, OR THREATS OF SUCH ACTIONS, WHICH HAVE BEEN TERMINATED, DISCONTINUED, OR NOT FOLLOWED UP ON BECAUSE OF PRICE AND/OR QUANTITATIVE UNDERTAKINGS AS DESCRIBED ABOVE. WE ARE PARTICULARLY CONCERNED ABOUT CASES WHICH OCCURRED JULY 1, 1975 TO JUNE 30, 1976, THE TIME FRAME FOR DISCUSSIONS AT

THE UPCOMING ANTIDUMPING COMMITTEE MEETING. IF A U.S. COMPANY IS INVOLVED WE WOULD APPRECIATE A COPY OF THE ORIGINAL COMPLAINT AND NAMES AND ADDRESSES OF COMPANIES, BOTH COMPLAINANTS AND RESPONDENTS, WHICH NORMALLY SHOULD BE AVAILABLE. NEWSPAPER ITEMS AND OTHER PUBLIC INFORMATION

FOR 00TH U.S. AND FOREIGN COMPANIES WOULD BE OF INTEREST.
PLEASE AIR POUCH ANY AVAILABLE INFORMATION TO EB/OT/STA,
STATE. TO BE USEFUL FOR ANTIDUMPING COMMITTEE ANNUAL
MEETING INFORMATION SHOULD BE RECEIVED BY SECOND
WEEK IN SEPTEMBER. FYI. INFORMATION WILL BE USED
ONLY TO FORMULATE GENERAL STATEMENTS FOR ANNUAL MEETING.
SPECIFIC FACTUAL SITUATIONS WILL NOT RPT NOT BE RAISED
AT MEETING. END FYI. TREASURY WOULD LIKE TO RECEIVE
INFORMATION DESCRIBED ABOVE WITH REFERENCE TO FUTURE
SITUATIONS OF THIS TYPE AS THEY ARISE. KISSINGER

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ANTIDUMPING LAW (TRADE)
Control Number: n/a
Copy: SINGLE
Draft Date: 12 AUG 1976
Decapton Date: 01 JAN 1960
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE200895
Document Source: CORE
Document Unique ID: 00
Drafter: MCJONES/TREAS:LPOTTS:JH
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760311-0765
From: SECSTATE WASHDC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760858/aaaabzed.tel
Line Count: 179
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: KelleyW0
Review Comment: n/a
Review Content Flags:
Review Date: 29 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 MAR 2004 by greeneet>; APPROVED <03 AUG 2004 by KelleyW0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: IMPLEMENTATION OF ANTIDUMPING LEGISLATION BY
TAGS: ETRD, AS, GATT, (POLLY, CHESTER F)
To: CANBERRA VIENNA BRUSSELS OTTAWA ROME TOKYO COPENHAGEN MADRID HELSINKI PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006